

VZCZCXRO9190
PP RUEHCHI RUEHDT RUEHHM
DE RUEHML #0711/01 0470812
ZNY CCCCC ZZH
P 160812Z FEB 06
FM AMEMBASSY MANILA
TO RUEHC/SECSTATE WASHDC PRIORITY 9313
INFO RUEHXS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS
RHHMUNA/CDRUSPACOM HONOLULU HI
RUEAIIA/CIA WASHDC
RHEHNSC/NSC WASHDC

C O N F I D E N T I A L SECTION 01 OF 02 MANILA 000711

SIPDIS

SIPDIS

DEPT FOR EAP, EAP/MTS, EAP/MLS, INR/EAP

E.O. 12958: DECL: 02/16/2016

TAGS: [PGOV](#) [PINS](#) [PINR](#) [RP](#)

SUBJECT: MALACANANG MODIFIES RESTRICTION AND ALLOWS SENIOR
OFFICIALS TO ATTEND CONGRESSIONAL HEARINGS

REF: A. MANILA 306

[B](#). 05 MANILA 4740

[C](#). 05 MANILA 4637

[D](#). 05 MANILA 4464

[E](#). 05 MANILA 3154

Classified By: Acting Pol/C Joseph L. Novak for
reasons 1.4 (b) and (d).

[1](#). (C) Summary: On February 11, Malacanang modified an executive order (E.O. 464) in effect since September 2005 and allowed senior officials to attend budget and other hearings in the House and Senate. In taking the step, Malacanang was responding to criticism that E.O. 464 encroached on the powers of the legislative branch. The controversy remains alive: the Supreme Court is scheduled to hear arguments on E.O. 464 shortly. Unless ordered to do so by the Court, Malacanang is unlikely to rescind the order given its view that Congress (especially the Senate) has used past hearings sheerly to embarrass the administration. End Summary.

Malacanang Relaxes Executive Order

[2](#). (U) On February 11, Malacanang issued Memorandum Order 192-A which modified a September 2005 executive order (E.O. 464) preventing Cabinet and other senior officials (including those in the military and police) from appearing at Congressional hearings without prior clearance from the President's Office. The memorandum specifically authorizes senior GRP officials to attend Congressional budget hearings and Commission on Appointments (CA) hearings until June 30 without obtaining prior authorization from Malacanang. (Note: The CA is a joint House/Senate committee that reviews high-level nominations for Executive Branch appointments. End Note.) As a result of the memorandum, officials from the Department of Justice attended Senate budget hearings on February 13 and other officials are expected to attend additional hearings later this month.

[3](#). (U) Despite the recent memorandum, Malacanang made clear that it has not altered its basic position on E.O. 464. President Arroyo's Press Secretary Ignacio Bunye stated on February 11 that the administration was temporarily relaxing the ban as it wanted to try to build a "constructive relationship" with the Senate. He went on to defend E.O. 464, claiming that the order was meant as a "shield against political persecution, grandstanding, and character assassination." He gave no indication that Malacanang planned to rescind the order at any point soon.

[4](#). (U) Background: President Arroyo issued E.O. 464 in

September 2005 in response to televised hearings in which senators mercilessly grilled National Security Advisor Norberto "Bert" Gonzales about a contract involving U.S. law firm Venable LLP for lobbying services (refs B and D). In late September, Armed Forces of the Philippines (AFP) Chief Generoso Senga relieved two high-ranking military officers from their posts for testifying before a Senate inquiry into election irregularities without prior military or GRP authorization (ref C).

Continued Complaints

15. (C) Malacanang's decision to modify E.O. 464 followed an outcry from legislators -- especially in the Senate -- complaining that administration officials were not participating in ongoing budget hearings. Senator Aquilino Pimental, a member of the Opposition, publicly asserted that E.O. 464 was "totally against Constitutional provisions providing for legislative oversight" of the budget and on other matters. Congressman Ronnie Zamora, another Opposition legislator, told Acting Pol/C that E.O. 464, in practice, was basically precluding administration officials from testifying before Congress.

16. (C) Legislators continue to complain about the order even after Malacanang's recent move. Senator Edgardo Angara, who maintains close links with Malacanang, stated that the order must be done away with. Senator Rodolfo Biazon, who has called for President Arroyo to resign, was quoted as stating that he appreciated Malacanang's recent step, but he called on the President to "once and for all get rid of this requirement which is destroying amity between the branches."

MANILA 00000711 002 OF 002

In a January 19 meeting, Biazon, the Chair of the Committee on National Defense, also told Acting Pol/C that he was having trouble scheduling further hearings to look into alleged illegal wiretapping because no one from the administration planned to show up. (Note: In January hearings, Biazon and other senators charged that members of the military -- acting at the behest of Malacanang -- had wiretapped phones during the May 2004 election timeframe. See ref A. End Note.)

Supreme Court Reviewing Matter

17. (U) Several groups have challenged the constitutionality of E.O. 464. On October 3, 2005, members of Bayan Muna, a left-wing Opposition party, filed a petition urging the Supreme Court to halt implementation of the order. Sixteen (of 23 current) members of the Senate -- including both pro-administration and Opposition elements -- subsequently filed a similar petition. These petitions have not yet been ruled on. Malacanang, for its part, argues that it will continue to fight efforts to strike down E.O. 464. It asserts that the order complies with the Constitution and protects Executive Branch prerogatives.

18. (U) On February 13, the 40,000-member Integrated Bar of the Philippines petitioned the Supreme Court to issue a temporary restraining order (TRO) regarding E.O. 464 on the grounds that it was doing acute and irrevocable harm to Constitutional arrangements as long as it was in force. The Supreme Court is scheduled to hear oral arguments on the matter on February 21 and will likely decide whether or not to issue a TRO at that time. In remarks to reporters on February 15, Supreme Court Chief Justice Artemio Panganiban indicated that the Court had not issued a TRO already, in part, because President Arroyo's recent memo modifying E.O. 464 helped to maintain the status quo between the branches.

Comment

19. (C) Unless ordered to do so by the Supreme Court, Malacanang is unlikely to rescind E.O. 464 given its view that Congress (especially the Senate) has used past hearings sheerly to embarrass the administration. Its recent move modifying the order was clearly aimed at placating critics, though that has not been successful. This controversy will likely linger as long as Malacanang/Senate ties remain frayed. (Note: See ref B for further background on the troubled Malacanang/Senate relationship. End Note.)

Visit Embassy Manila's Classified SIPRNET website:
<http://www.state.sgov.gov/p/eap/manila/index.cfm>

You can also access this site through the State Department's
Classified SIPRNET website:
<http://www.state.sgov.gov/>

Jones